

STATE OF LOUISIANA LEGISLATIVE AUDITOR

**Louisiana State Police Retirement System
Baton Rouge, Louisiana**

November 22, 2000



***Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor***

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LEGISLATIVE AUDITOR

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LOUISIANA STATE POLICE RETIREMENT SYSTEM

Baton Rouge, Louisiana

Dated October 5, 2000

Under the provisions of state law, this report is a public document. A copy of this report has been submitted to the Governor, to the Attorney General, and to other public officials as required by state law. A copy of this report has been made available for public inspection at the Baton Rouge office of the Legislative Auditor.

November 22, 2000

LOUISIANA STATE POLICE RETIREMENT SYSTEM
Baton Rouge, Louisiana

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OFFICE OF
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STATE OF LOUISIANA
BATON ROUGE, LOUISIANA 70804-9397

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October 5, 2000

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**MR. JAMES CHAMPAGNE, CHAIRMAN,
AND MEMBERS OF THE BOARD OF TRUSTEES
LOUISIANA STATE POLICE RETIREMENT SYSTEM**
Baton Rouge, Louisiana

We have performed a limited examination of the Louisiana State Police Retirement System (System). Our examination was conducted in accordance with Title 24 of the Louisiana Revised Statutes and was performed to determine the propriety of certain allegations received by this office.

The accompanying report presents our findings and recommendations as well as responses from management of the System. We will continue to monitor the findings until the System resolves them. Copies of this report have been delivered to the Louisiana Board of Ethics and other authorities as required by state law.

Respectfully submitted,

A handwritten signature in black ink, reading "Daniel G. Kyle", is written over the typed name.

Daniel G. Kyle, CPA, CFE
Legislative Auditor

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LEGISLATIVE AUDITOR

LOUISIANA STATE POLICE RETIREMENT SYSTEM

Baton Rouge, Louisiana

BACKGROUND

The Louisiana State Police Retirement System (System) was established and provided for within Title 11 of the Louisiana Revised Statutes. The System is a component unit of the State of Louisiana and its financial statements are included in the financial statements of the State of Louisiana as a pension trust fund.

The System is the administrator of a single employer defined benefit plan (retirement fund) that covers (1) all sworn, commissioned law enforcement officers of the Division of State Police of the Department of Public Safety who have completed the State Police Training Academy Course of Instruction; (2) those members employed on the effective date of the System; (3) those subsequently employed who did not withdraw employee contributions; and (4) secretaries and deputy secretaries of the Department of Public Safety, provided they are sworn, commissioned Louisiana State Police officers.

The System's retirement fund is the smallest of the four state retirement systems. At June 30, 2000, total participants are 2,026 and net assets total \$245,811,590. The retirement benefits are guaranteed under the state constitution and the State of Louisiana is primarily responsible for funding the actuarial liabilities of the retirement fund through general fund appropriations. For the year ended June 30, 2000, retirement fund contributions from the State of Louisiana totaled \$19,694,317 (77.5% of total contributions), retirement fund contributions from motor vehicle fees totaled \$2,919,094 (11.5% of total contributions), and member contributions totaled \$2,790,465 (11% of total contributions). The System contracts with seven investment firms (money managers) to invest the retirement funds and pays PaineWebber, Incorporated, \$80,000 a year to primarily monitor/evaluate the performance of the money managers.

A board of trustees (board) administers the System. The board is composed of the following members:

1. The state treasurer, ex officio
2. The commissioner of administration, ex officio
3. The superintendent of the Office of State Police
4. The president of the Louisiana State Troopers' Association
5. The chairman of the Retirement Committee of the House of Representatives of the Louisiana Legislature, ex officio
6. The chairman of the Retirement Committee of the Senate of the Louisiana Legislature, ex officio
7. Active System member, elected by active members
8. Retired System member, elected by retired members
9. Active or retired member, elected by active and retired members

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Baton Rouge, Louisiana
Background (Concluded)

Louisiana law provides the board full and complete authority to manage and administer the retirement fund and to incur whatever expenses may be necessary to properly administer the System and the retirement fund. The System's director, Mr. Walter Smith, was appointed by the board and has been employed by the System for approximately twelve years. Other employees of the System include the assistant director, part-time accountant, retirement benefits analyst, and secretary.

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LOUISIANA STATE POLICE RETIREMENT SYSTEM Baton Rouge, Louisiana

METHODOLOGY

The Legislative Auditor received information about specific issues relating to time and attendance records, travel expenses, credit cards, and use of vehicles. We visited the System to determine the accuracy of this information.

We conducted a limited review of the System's financial records. A limited review is substantially less in scope than an audit conducted in accordance with generally accepted auditing standards, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

Our procedures consisted of the following: (1) examining selected System records; (2) interviewing certain employees of the System; (3) reviewing applicable Louisiana laws and Attorney General opinions; and (4) making inquiries of other persons to the extent we considered necessary to achieve our purpose.

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CONCLUSIONS

The following summarizes the findings that resulted from this limited examination of the System. The Findings and Recommendations section of this report provides details for these findings. Management's responses are included in Attachment I.

1. The director was given 24 weeks of annual leave and 24 weeks of sick leave in violation of management's fiduciary responsibilities. In addition, the director's leave balances are not reduced for leave taken. (See page 7.)
2. The director may have violated the Louisiana Code of Governmental Ethics by accepting complimentary lodging and airfare from businesses. (See page 8.)
3. The director's travel expenditures did not always comply with the System's travel policy. Also, there is no documentation of board approval before the director's travel. (See page 9.)
4. The director uses the System's vehicle for personal use and the vehicle is unmarked. In addition, the System does not report the director's personal use of the vehicle as taxable income as required by federal tax laws. (See page 13.)
5. System funds were used to purchase airline tickets and pay for conference lodging and registration fees for non-employees of the System. In addition, System funds were used to purchase flight insurance and meals for employees. (See page 15.)
6. Controls over disbursements need to be improved. A substantial number of credit card charge tickets were missing, and restaurant meals lacked documentation for business purpose and names of persons participating. (See page 16.)
7. The director authorized overtime pay for an employee to circumvent the Civil Service pay plan rules. (See page 17.)

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Baton Rouge, Louisiana

FINDINGS AND RECOMMENDATIONS

**Leave Given to Director Violates Management's Fiduciary
Responsibilities and Leave Records Not Reduced for Leave Taken**

The director was given 24 weeks of annual leave and 24 weeks of sick leave in violation of management's fiduciary responsibilities. In addition, the director's leave balances are not reduced for leave taken. Giving annual and sick leave to the director violates management's fiduciary responsibilities of exercising good faith, trust, confidence, and candor in managing the System. In addition, Article VII, Section 14(A) of the Louisiana Constitution of 1974 provides that the funds, credit, property, or things of value of the state or any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation. It is questionable as to whether the System's funds are "public funds" and if Article VII is applicable to retirement systems. However, Article VII does provide guidance as to the fiduciary responsibility of management in protecting the funds and assets of the System that are entrusted to them on behalf of the Louisiana state troopers. The majority of System contributions (89%) come from the State of Louisiana's general fund appropriation and from motor vehicle fees, which are no doubt public funds.

Annual and Sick Leave Given to Director

On December 7, 1999, the board adopted an annual and sick leave policy retroactive for five years. As a result of this board action, the director received 959 hours (24 weeks) of retroactive annual leave and 959 hours (24 weeks) of retroactive sick leave. The retroactive leave represents the maximum number of leave hours that the director could earn in a five-year period without a reduction for leave taken during the five-year period. Before December 7, 1999, the director did not earn annual or sick leave but was allowed to take annual and sick leave as needed. There are no supporting attendance records or leave records for the director that support the leave given to him.

The Louisiana Attorney General (AG) has consistently opined (AG Opinions 91-383 and 86-88) that retroactive pay is a bonus or donation that is prohibited by Article VII, Section 14(A) of the Louisiana Constitution of 1974. The retroactive annual and sick leave given to the director is equal to a bonus payment because he can immediately start taking the leave, and if his employment ceases, he would be paid for 300 hours of annual leave and receive the remainder of his leave as earned service credit to increase his retirement benefits.

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Findings and Recommendations (Continued)

Director's Leave Records Not Reduced for Leave Taken

Executive Order MJF 98-23 requires the System to establish and maintain daily attendance and leave records. The director's leave (annual and sick) records maintained since December 1999 report leave earned but do not report leave taken. The director informed us that he has taken leave since December 1999; however, he works more than an eight-hour day and that these additional work hours accumulate and "even out" with the leave hours he takes. Therefore, he does not record leave taken. We could not verify this information because the director does not maintain daily attendance records to support his hours worked.

In addition to violating Executive Order MJF 98-23, which requires the System to establish and maintain daily attendance and leave records, the AG has opined (89-191 and 79-40) that payments for annual leave can only be made when accurate attendance and leave records are maintained.

The System should (1) revoke the 24 weeks of retroactive annual leave and 24 weeks of retroactive sick leave given to the director on December 7, 1999; (2) remove all annual leave and sick leave recorded as earned by the director since December 7, 1999, which is not supported by accurate attendance and leave records; and (3) require the director to complete accurate daily attendance and leave reports.

Failure to Comply With Code of Ethics

The director may have violated the Louisiana Code of Governmental Ethics by accepting complimentary lodging and airfare from businesses. Louisiana Revised Statute (R.S.) 42:1115(A)(1) states that no public servant shall solicit or accept, directly or indirectly, any thing of economic value as a gift or gratuity from any person if the public servant knows or reasonably should know that such person has or is seeking to obtain contractual or other business or financial relationships with the public servant's agency. Also, R.S. 42:1111(A)(1) provides that no public servant shall receive anything of economic value, other than compensation and benefits from the governmental entity to which he is duly entitled, for the performance of the duties and responsibilities of his office or position.

We noted that the director accepted complimentary (free) lodging, meals, and airfare from various businesses during our review. For example, for the period from May 1999, through September 1999, the director accepted complimentary lodging and meals from the following businesses:

Investment Research Company

The director attended Investment Research Company's (IRC) three-day function in Palm Springs, California, on May 6-8, 1999. The director informed us that IRC was soliciting the System's investment business. An IRC representative said that IRC invited client prospects to this three-day "gathering" for educational purposes and "to have some fun." The IRC

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Findings and Recommendations (Continued)

representative confirmed to us that IRC paid for the director's lodging (at the Renaissance Esmeralda Resort) and meals, estimated at \$500. Although R.S. 42:1102(22)(a) allows an exception for food and drink consumed while the personal guest of some person, IRC did not provide the specific amount paid for meals. The System paid the director's other travel related costs (airfare, flight insurance, parking, vehicle rental, and four nights per diem) incurred on this trip, totaling \$1,069.

PaineWebber

The director attended PaineWebber's two-day client education conference held at PaineWebber's offices in New York, New York, on September 16-17, 1999. PaineWebber has been the System's investment advisor for approximately eleven years. A PaineWebber representative confirmed to us that PaineWebber paid for the director's lodging (at the Le Parker Meridien Hotel) and meals, estimated at \$500 (PaineWebber did not provide the specific amount paid for meals).

The System should strictly comply with the Louisiana Code of Governmental Ethics. The director should be prohibited from accepting anything of economic value, other than compensation and benefits from the System, for the performance of the duties and responsibilities of his position.

Director's Travel Did Not Always Comply With Travel Policy

The director's travel expenditures did not always comply with the System's travel policy. Also, there is no documentation of board approval before the director's travel. During the three-year period from July 1, 1997, through June 30, 2000, the director went on 49 overnight trips (29 out-of-state and 20 in-state), costing the System \$38,681. The director informed us that he obtains verbal approval from the board chairman for his out-of-state travel and that he is "on his own" for in-state travel.

Our review of available travel records from July 1, 1997, through June 30, 2000, revealed the following instances where the director's travel did not comply with the System's travel policy:

1. On two occasions the director's lodging exceeded the travel policy limits. The travel policy allows reimbursement for in-state lodging (that is not conference-related lodging) not to exceed \$100 per day. The policy provides for exceptions; however, the exceptions must be fully documented as to necessity and cost effectiveness of alternative options.

The director's lodging for his stay at the Marriott Hotel in New Orleans, Louisiana, on October 7, 1998, and May 5, 1999, was \$199 and \$189, respectively. There was no documentation of the business purpose or the necessity of the director staying overnight in New Orleans or the cost effectiveness of alternative options.

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Findings and Recommendations (Continued)

- The director rented vehicles in violation of the travel policy on five occasions. The policy allows rental vehicles when it can be documented that vehicle rental is the most cost-effective method of transportation that will accomplish the purpose of the travel and with the prior approval of the board chairman. Also, the policy provides that only the cost of a compact vehicle is reimbursable; however, exceptions are allowed when the non-availability of a compact vehicle is documented or with chairman approval. The following is a summary of vehicles rented:

<u>Dates of Rental</u>	<u>Company/Location of Rental</u>	<u>Vehicle/Type</u>	<u>Cost</u>
October 22, 1997	Budget - Ontario, CA	Ford Windstar/Van	\$411
May 5, 1999	Hertz - Ontario, CA	Mercury Grand Marquis/Premium	345
August 13, 1999	Dollar - Reno, NV	Dodge Intrepid/Full-size	143
November 18, 1999	Dollar - Charlotte, NC	Dodge Intrepid/Full-size	170
May 7, 2000	National - Charleston, SC	Oldsmobile Intrigue/Full-size	48
Total			<u>\$1,117</u>

There was no documentation that the rental vehicles were the most cost-effective method of transportation (e.g., compared to a taxi, shuttle, etc.). Also, there was no documentation of non-availability of compact models or chairman approval for an upgrade in rental vehicles to full-size or premium. The director informed us that he does not obtain the chairman's approval to rent vehicles.

- The director was reimbursed the full amount for meal per diems (\$30), even though the meals were charged on the System's credit card or provided without cost to the director.

We noted the following meals that were charged on the System's credit card and the director also filed for and was reimbursed by the System a meal per diem of \$30 for the day:

<u>Date</u>	<u>Location</u>	<u>Amount</u>
October 17, 1997	Newport, CA	\$92
July 11, 1998	San Francisco, CA	80
June 26, 1999	Carson City, NV	75
October 23, 1999	Palm Springs, CA	100
Total		<u>\$347</u>

We noted the following organizations that provided gratuitous meals to the director and the director filed for and was reimbursed by the System a meal per diem of \$30 for each day:

<u>Dates</u>	<u>Organization</u>	<u>Location</u>	<u>Meals Provided</u>	<u>Per Diem Paid Director</u>
May 6-8, 1999	Investment Research Company	Palm Springs, CA	All	\$120 for 4 days
Sept. 16-17, 1999	PaineWebber	New York, NY	All	\$60 for 2 days
May 7-10, 2000	Asset Allocation Summit	Kiawah Island Resort, SC	8 meals	\$120 for 4 days

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Findings and Recommendations (Continued)

4. *The director did not document the total cost of his trips on his travel expense reimbursement forms. The travel policy requires the travel expense reimbursement form to reflect the total cost of the trip and be in sufficient detail to provide reasonable review and understanding.*

The director's travel expense reimbursement forms reflect his daily per diems, taxi fares, parking, and tips; however, there is no documentation on the forms of the cost of the related airfare, lodging, and vehicle rentals. Also, the director's travel expense reimbursement forms do not always document the business purpose of his trips.

We selected three out-of-state trips made by the director for a detailed review. The following details the results of our review.

**National Association of Police Organizations
Twelfth Annual Public Safety Pension and Benefits Seminar
Las Vegas, Nevada
February 14-17, 2000**

- The director attended the seminar for \$1,499 as follows:

Expenditure Type	Cost
Airline Ticket - Roundtrip	\$371
Flight Time Change	75
Flight Insurance Premium	14
Lodging - Harrah's Hotel	544
Meals Per Diem - Six Nights	180
Conference Registration Fee	275
Cab Fare	40
Total	<u>\$1,499</u>

- The seminar started Monday, February 14, 2000; however, the director arrived on Friday, February 11, 2000 (two days earlier than necessary). There is no documentation as to why the director arrived two days early. The costs for meals and lodging for the two days totaled \$238.
- On the first day of the seminar, Monday, February 14, 2000, there was no continuing professional education (CPE) scheduled; however, a golf tournament was held from 10:30 a.m. until 5:00 p.m. For Tuesday, Wednesday, and Thursday, February 15-17, 2000, fifteen and one-half hours of CPE were scheduled.
- There is no documentation of board approval before the director's travel.

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Findings and Recommendations (Continued)

**Asset Allocation Summit
Kiawah Island Resort, South Carolina
May 7-10, 2000**

- The director attended the summit for \$1,461 as follows:

Expenditure Type	Cost
Airline Ticket - Roundtrip	\$355
Flight Insurance Premium	14
Lodging - Kiawah Island Golf and Tennis Resort	924
Meals Per Diem - Four Nights	120
Vehicle Rental	48
Total	<u>\$1,461</u>

- There was no CPE scheduled for the first day of the summit (Sunday, May 7, 2000); however, there was a reception and dinner scheduled at 6:30 p.m. Although the summit reception was held on Sunday, May 7, 2000, the director arrived on Saturday, May 6, 2000 (one day earlier than necessary). There is no documentation as to why the director arrived one day early. The costs for meals and lodging the one day totaled \$261.
- For Monday, Tuesday, and Wednesday, May 8-10, 2000, fourteen and one-half hours of CPE were scheduled. On Tuesday, May 9, 2000, a golf tournament was scheduled at 1:30 p.m.
- There is no documentation of board approval before the director's travel.

**Colonial Life Insurance Company - Visit
Columbia, South Carolina
November 13-16, 1999**

- The director visited the Colonial Life Insurance Company's offices in Columbia, South Carolina, for \$937 as follows:

Expenditure Type	Cost
Airline Ticket - Roundtrip	\$376
Flight Insurance Premium	14
Lodging - Courtyard Marriott	287
Vehicle Rental	170
Meals Per Diem - Three Nights	90
Totals	<u>\$937</u>

- The director informed us that he traveled to Columbia, South Carolina, to meet with Colonial Life Insurance Company representatives on Monday, November 15, 1999. The director's flight departed on Saturday, November 13, 1999, at 6:00 a.m. (one day earlier than necessary), and arrived in Charlotte, North Carolina, at 8:42 a.m. The director rented a vehicle and he drove from Charlotte, North Carolina, to

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Findings and Recommendations (Continued)

Columbia, South Carolina, a distance of approximately one hundred miles. Also, the director's return flight departed Charlotte, North Carolina, on Tuesday, November 16, 1999 (one day after the meeting). The director informed us that it was cheaper to fly into Charlotte, North Carolina. However, there is no documentation as to the cost effectiveness of this alternative flight option (including consideration of the cost of the rental vehicle). Also, there is no documentation as to why the director departed one day early or why he returned on the day after the meeting.

- Although there is no documentation of the business purpose of the trip, the director informed us that he went to discuss retiree insurance premium billing problems that the System was experiencing. The director said that he was not getting answers to these problems from the insurance company's Baton Rouge office. However, the insurance company's Baton Rouge representative informed us that he was not aware of any retiree insurance premium billing problems. The Baton Rouge representative said he thought the South Carolina trip was set up because the director was going to be in that area (South Carolina) and he wanted to take a tour of the insurance company's home office.
- Colonial Life Insurance Company's representatives in Columbia, South Carolina, informed us that they met with the director for approximately three hours consisting of a one-hour meeting and a two-hour tour of their operations and various processing areas. The billing manager said that they took the director on a tour of their offices and discussed their billing process with the director; however, she was not aware of any specific billing problems that the System was experiencing.
- There is no documentation of board approval before the director's travel.

The System should:

- Require that the director receive written approval from the board before traveling. The business purpose and benefit to the System should be documented in the approval process.
- Require strict compliance with travel policy provisions relating to lodging, rental vehicles, meals, and expense reimbursement forms.
- Recover from the director all excess monies paid in violation of the travel policy provisions.

**Personal Use of System's Vehicle
Not Reasonable and Necessary**

The director uses the System's vehicle for personal use and the vehicle is unmarked. In addition, the System does not report the director's personal use of the vehicle as taxable income as required by federal tax laws. The System's vehicle should be used only for reasonable and necessary travel for business of the System. Unrestricted personal use of the System's vehicle is clearly not reasonable and necessary business travel and violates management's fiduciary responsibility of protecting the funds and assets of the System on

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Findings and Recommendations (Continued)

behalf of the troopers. Although it is questionable as to whether the System's funds are "public funds," the following state laws are used to provide guidance to the use of the System's vehicle.

The State of Louisiana Fleet Management Regulations Part XI, Chapter 1, Section 103(2)(d)(iii) prohibits the personal use of a vehicle belonging to the state, to any of its political subdivisions, or to any agency of its political subdivisions. AG Opinion 90-519 states that personal use is permissible only when it is minimal, reasonably necessary, and incidental to the authorized public use and that misuse for unrestricted private purposes is a breach of fiduciary duty. Also, R.S. 49:121 requires the System's vehicle to have inscribed, painted, decaled, or stenciled on the outside door on each side of the vehicle, an insignia containing the name of the System.

In addition, an employer-provided vehicle is considered a fringe benefit under federal employment tax laws. Employees are generally required to maintain adequate records substantiating their business use of the vehicle.

The System owns one vehicle that is used by the director for personal use. For example, the director drove the System vehicle to Kentwood, Louisiana, to visit relatives on November 25, 1999, December 27, 1999, and May 28, 2000. Also, the director drove the System vehicle to Ft. Lauderdale, Florida (approximately 1,800 miles roundtrip) to visit with representatives of one of the System's investment firms on October 18, 1999. The director left Baton Rouge on Saturday, October 16, 1999, and returned to Baton Rouge on Thursday, October 21, 1999. The investment firm representative informed us that the director contacted them to set up the visit because he told them that he would be in the area. The investment firm representative told us that the director was given a tour of their offices and that his visit lasted approximately four hours. The director said that he took his wife on this trip and that they also visited Disney World (in Orlando, Florida). The director told us that the additional five days were personal travel; however, the director filed for and was reimbursed by the System for four days of meal per diems, totaling \$120.

The System's vehicle is an unmarked 1998 Buick LeSabre. The director said that there is no decal/logo on the System vehicle because the board did not think one was necessary.

The director did not maintain records substantiating his business use of the vehicle, and the System did not determine the value of the personal use and include it in his wages as required by federal tax laws.

The System should (1) determine whether a vehicle is necessary (cost/benefit); (2) prohibit the director from using the vehicle for personal use; (3) properly identify the System's vehicle with appropriate decals; (4) comply with appropriate employment tax laws and record-keeping requirements; and (5) amend the applicable payroll tax reporting forms and submit these to the appropriate federal and state taxing authorities.

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Findings and Recommendations (Continued)

Expenditures for Airline Tickets, Flight Insurance Premiums, Conference Lodging and Registration Fees, and Meals Lacking Public Purpose

System funds were used to purchase airline tickets and pay for conference lodging and registration fees for non-employees of the System. In addition, System funds were used to purchase flight insurance and meals for employees. None of these expenditures appear to have any public purpose. Article VII, Section 14(A) of the Louisiana Constitution of 1974 provides that the funds, credit, property, or things of value of the state or any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation. It is questionable as to whether the System's funds are "public funds" and if Article VII is applicable to retirement systems. However, Article VII does provide guidance as to the fiduciary responsibility of management in protecting the funds and assets of the System that are entrusted to them on behalf of the Louisiana state troopers.

Airline Tickets Purchased for Non-employees of the System

Airline tickets, totaling \$1,147, were purchased during the three-year period from July 1, 1997, through June 30, 2000, for the System's actuary (\$784) and a retired state trooper (\$363).

The director informed us that each year the System pays all of the actuary's travel expenses to attend the Public Safety Employees Pension & Benefits Conference (PSEP&BC) held in Palm Springs, California. However, the System is under no contractual obligation to pay for the actuary's conference travel expenses. Also, the director said that the retired state trooper was not required to reimburse the System for his travel expenses to the PSEP&BC because the retired state trooper attended the conference as a "substitute" for the board chairman.

Flight Insurance Premiums

Thirty-five flight insurance premiums, totaling \$490, were charged on the System's American Express card during the three-year period from July 1, 1997, through June 30, 2000. The director informed us that he enrolled in the American Express Automatic Flight Insurance Plan (plan). The plan is a \$1,000,000 accidental death and dismemberment policy that insures the director, his wife, and dependent children under age 23, in which death benefits are payable to his family members or their estate. Under the plan, American Express automatically bills a \$14 flight insurance premium to the System's account when an airline ticket is charged on the credit card.

Conference Meals, Lodging and Registration Fees Paid for Actuary and Retired State Trooper

The System's actuary attended three PSEP&BC conferences in Palm Springs, California, and a retired state trooper attended one PSEP&BC conference during the three-year period. In addition to paying their airfare as discussed previously, the System paid \$3,409 for meals, lodging, and registration fees for these individuals to attend the conferences.

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Findings and Recommendations (Continued)

Restaurant Meals for Employees

The System paid \$738 for the following restaurant meals for employees that are not for a public purpose:

<u>Date</u>	<u>Restaurant</u>	<u>Amount</u>	<u>Occasion</u>
May 18, 1999	Mansur's	\$500	Former assistant director's "going away" party
April 21, 1999	Café American	69	Secretary's Day
November 23, 1999	Stephen's Courtyard	75	Thanksgiving
April 26, 2000	Macaroni's	94	Secretary's Day
Total		<u>\$738</u>	

The System should:

- Discontinue paying for airline tickets, conference meals and lodging, and conference registrations for non-employees of the System.
- Require the actuary and retired state trooper to repay the cost of airfare, conference meals and lodging, and registration fees paid on their behalf.
- Recover from the director all flight insurance premiums paid and discontinue the American Express Automatic Flight Insurance Plan.
- Discontinue purchasing meals for employees that are not for a public purpose.

Need to Improve Controls Over Disbursements

Controls over disbursements need to be improved. The control weaknesses are as follows:

Missing Credit Card Charge Tickets/Receipts

Our review of purchases charged on the System's American Express credit card during the three-year period from July 1, 1997, through June 30, 2000, revealed a substantial number of credit card charge tickets/receipts were missing. The director maintains possession of the credit card and is the only employee registered as a card member on the System's American Express account. The director charged \$48,437 on the credit card during this period of time for travel and travel-related expenses.

The director informed us that he does not maintain the credit card charge tickets/receipts for purchases made using the card. The director said that the System maintains the American Express monthly statement as support for the credit card purchases. The American Express monthly statements reflect the dates of the charges, the names of the merchants, and the total amount charged; however, specific details of the credit card charges (e.g., signatures, descriptions of individual purchases, etc.) are not evidenced. On August 16, 2000, we formally requested those copies of all missing charge tickets/receipts for the three-year period (July 1, 1997, through June 30, 2000) be obtained for our review. However, the director informed us on September 20, 2000, that they were unable to obtain the copies of all missing charge tickets/receipts. The following is a summary of those charge tickets/receipts that the director could not obtain.

LEGISLATIVE AUDITOR

LOUISIANA STATE POLICE RETIREMENT SYSTEM

Baton Rouge, Louisiana

Findings and Recommendations (Continued)

<u>Types of Charges</u>	<u>Total Charges for the Three-Year Period</u>	<u>Number of Missing Paid Charge Tickets/Receipts</u>	<u>Amount</u>
Lodging	\$30,778	34	\$10,320
Airfare	12,340	23	7,168
Vehicle Rentals	2,150	4	833
Meals	1,781	13	1,454
Gasoline	807	54	807
Car Washes	581	37	550
Totals	<u>\$48,437</u>	<u>165</u>	<u>\$21,132</u>

Restaurant Meals Lack Documentation for Business Purpose

The director charged eighteen meals, totaling \$1,781, on the System's American Express card during the three-year period from July 1, 1997, through June 30, 2000. Meal receipts were not available for 13 of the 18 charges. The five meal receipts available did not contain the Internal Revenue Service required documentation of the business purpose of the meals and the names of persons participating.

The System should discontinue the use of the American Express credit card or ensure that charge tickets/receipts and all other supporting documentation are filed in an appropriate manner to safeguard them from being misplaced or lost. Also, the System should require that the business purpose for meals and the names of individuals participating be documented.

Overtime Pay Circumvents Civil Service Rules

The director authorized overtime pay for an employee to circumvent the Civil Service pay plan rules. The State of Louisiana Department of Civil Service (Civil Service) rule 6.1 provides that the Civil Service pay plan regulates the compensation of all classified state employees. Generally, each employee is paid at a rate within the range for the grade of the job to which the position is allocated.

Upon an employee's job classification downgrade by Civil Service, the director authorized 11.5 hours of overtime pay to be paid each biweekly pay period to the employee to make up for the reduction (\$3,612) in his annual salary. This practice effectively circumvents the Civil Service pay plan rules.

The director hired an individual on February 28, 2000, as a Retirement Benefits Analyst III, at an annual salary of \$28,500. However, upon Civil Service examination/review on April 14, 2000 (one and a half months later), the job classification was downgraded from the level III to a level I because the individual lacked two years of professional-level experience. As a result of this job classification downgrade, the employee's annual salary was reduced by \$3,612 (from \$28,500 to \$24,888).

LEGISLATIVE AUDITOR

LOUISIANA STATE POLICE RETIREMENT SYSTEM

Baton Rouge, Louisiana

Findings and Recommendations (Concluded)

The director informed us that paying overtime is the only way he could legally continue to pay the employee the salary promised him at the time he was hired. On May 25, 2000, the employee began completing an "Application For Overtime" form each biweekly pay period that reflects 11.5 overtime hours and the approval of the director or assistant director. The employee informed us that he works the overtime hours at both his home and the office and that his overtime work is not reviewed. We questioned the director on whether the employee was actually working the 11.5 hours of overtime for which he was being paid. The director said, "I know the employee is doing the work because the work is getting done." As of September 22, 2000, the System has paid the employee overtime pay totaling \$1,109. The director said that the overtime pay will "go away" after another year and a half because at that time the employee will have the required experience and will be paid the regular salary that he was promised when he was hired.

The System should:

- Discontinue paying overtime pay to the employee, unless it is absolutely necessary that the work be done after normal working hours.
- Require that the product of the overtime work be reviewed timely by an appropriate supervisor.
- Develop and adopt an overtime policy that prohibits work at home arrangements.

Attachment I

Management's Responses



Louisiana State Police Retirement System

November 14, 2000

RECEIVED
LEGISLATIVE AUDITOR
NOV 15 AM 10:12

Mr. Daniel G. Kyle, CPA, CFE
Legislative Auditor
100 North Third Street
Post Office Box 94397
Baton Rouge, Louisiana 70804-9397

Re: Louisiana State Police Retirement System

Dear Mr. Kyle:

This is to respond to your letter to me dated November 2, 2000 and to address the preliminary draft report of your findings, both relative to the Louisiana State Police Retirement System. Thank you for the opportunity to review the draft and to respond.

Initially, and because it applies to various sections of your draft report, I would like to bring to your attention the fact that LSA-Constitution Article VII, Section 14(A) does not apply to any funds, assets, or property held by the retirement system. By its own terms, Article VII, Section 14(A) applies to "funds, credit, property, or things of value of the state or of any political subdivision."

In Louisiana State Employees' Retirement System et al. v. State of Louisiana, through the Department of Justice, et al., 423 So.2d 73, La. App., 1st Cir., writ denied (stating "The result is correct."), 427 So.2d 1206, La., the Court reviewed the legal status of funds held by two other of Louisiana's state retirement systems. The Court stated as follows:

The funds involved here consist of contributions made by the individual members of the retirement systems and matching contributions by the State. The State contributions are in the nature of fringe benefits or additional compensation. The funds here belong to the members of the systems. Neither the State nor the general public has any proprietary interest in same. These funds are in trust for the members of the systems. (Emphasis added.)

The Court then held that the "funds belonging to these retirement systems are not public/state funds." (Emphasis added.) The inescapable conclusion is that once the employee and employer

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Re: Louisiana State Police Retirement System
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contributions (from which the retirement system's investments, assets, and operating funds are derived) come into the possession of the Louisiana State Police Retirement System, they thereby lose any inkling of status as public/state funds. Therefore Article VII, Section 14(A) does not apply to any funds, assets, or property held by the retirement system.

Instead, LSA-Constitution Article X, Section 29 and statutes enacted pursuant thereto apply to the property, investments, assets and operating funds held by the retirement system. Article X, Section 29 states, in part, that "[a]ll assets, proceeds, or income of the state and statewide public retirement systems, and all contributions and payments made to the system to provide for retirement and related benefits shall be held, invested as authorized by law, or disbursed as in trust *for the exclusive purpose of providing* such benefits, refunds, and *administrative expenses under the management of the boards of trustees* and shall not be encumbered for or diverted to any other purpose." Emphasis added. See also LSA-R.S. 11:261 et seq.) This provision of the Constitution places the management, control, and use of the funds, property, and assets held and owned by the retirement system under the exclusive and autonomous management of the system's Board of Trustees. Neither the Legislative nor the Executive Branch of government may interfere with, obstruct, supersede, or override the autonomous and exclusive authority of the Board, vested with it by the Constitution, over the management, control, and use of the system's property and assets.

With regard to the retirement system's operating funds, those funds are derived from the employee and employer contributions paid to the system. As and when those contributions are submitted to the system, they are deposited into a general trust account held by the system. Funds are periodically transferred from that account to an administrative expense account from which the administrative expenses of operating the system are paid according to a budget reviewed and adopted by the system's Board of Trustees. Once the employee and employer contributions (from which the retirement system's operating funds are derived) come into the possession of the retirement system, they thereby lose any inkling of status as public/state funds. The transfer of such funds into the system's operating account (from which the system's administrative expenses are paid) does not somehow convert the funds back into a public/state fund status.

Therefore, the funds used to pay the administrative expenses of operating the retirement system are not public/state funds. As such, the restrictions imposed by law on the use of public/state funds, in particular Article VII, Section 14(A) of the Constitution, do not apply to funds used to pay the administrative expenses of operating the system.

With this clarification of the law in mind, I will now address the seven items your raised in your draft report.

Mr. Daniel G. Kyle, CPA, CFE
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Your first item, concerning the system's director's annual and sick leave, is based entirely on the incorrect assumption that Article VII, Section 14(A) is applicable to the funds, property, and assets held by the retirement system. Since, as demonstrated above, that assumption is incorrect, the conclusions you reached are also incorrect and invalid. However, I acknowledge that as a matter of management, better records concerning leave accumulated and/or taken by the system employee at issue is a subject that the retirement system's Board of Trustees should and will investigate. Upon conducting our own investigation, appropriate action will be taken. The speed with which you required that this response be prepared did not allow adequate time for the Board to fully investigate and act in this regard. A follow-up response, if you desire, will be provided when our investigation and action is completed.

With regard to your second item pertaining to the acceptance of lodging and airfare from businesses, I acknowledge that this situation needs to be monitored and investigated by the Board of Trustees more thoroughly. Action will be taken by the Board of Trustees to insure strict compliance with the Louisiana Code of Governmental ethics in the future. A follow-up response, if you desire, will be provided when our course of action is adopted and implemented.

Concerning your third item relative to compliance with the Travel Policy adopted and approved by the retirement system's Board of Trustees, I again point out that the use and expenditure of administrative funds, including travel expenses, is solely a matter under the management of the system's Board of Trustees. In addition, please be advised that our Travel Policy is out-dated and is in great need of revision to meet current travel conditions; the policy is currently being reviewed by the Board to assure that it accurately reflects the Board's requirements and is a realistic document in terms of the level of today's travel expenses. Nevertheless, action will be taken by the Board of Trustees to insure strict compliance with our travel policy in the future. A follow-up response, if you desire, will be provided when our course of action is adopted and implemented.

Turning to your fourth item with respect to use of the vehicle owned by the retirement system, here again I reiterate that control of the use of property and assets belonging to and held by the retirement system is vested exclusively by the Constitution under the management of the system's Board of Trustees. Neither the Legislature nor the Executive branch of state government nor any office thereof may interfere with, obstruct, supersede, or override the autonomous authority of the Board over the management of the system's property and assets.

My response to your fifth item, concerning additional issues involving travel and dining expenditures of system's administrative funds, is the same as my response to the third and fourth items contained in your draft report.

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Your sixth item involves "in-house" administrative and management practices and record keeping practices and will be fully investigated in due time by the retirement system's Board of Trustees. Upon conducting our own investigation, appropriate action will be taken. The speed with which you required that this response be prepared did not allow adequate time for the Board to fully investigate and act in this regard. A follow-up response, if you desire, will be provided when our investigation and action is completed.

Finally, addressing your seventh item pertaining to use of overtime pay for a particular system employee, I have been assured that in the instances when overtime was used, there was work that needed to be done and the only way it could be done was for staff to work overtime. The Board of Trustees has various duties and responsibilities to assure that the needs of the retirement system's members and beneficiaries are met. If and when the use of overtime is required to meet those needs, I am appreciative that our staff is willing to perform it.

We specifically deny and refute any allegation that there has been a breach of any fiduciary responsibility or obligation or any applicable state law.

I hope this information is of assistance to you.

Sincerely,

A handwritten signature in black ink that reads "James E. Champagne". The signature is written in a cursive, flowing style.

James E. Champagne
Chairman, Board of Trustees,
Louisiana State Police
Retirement System

JEM:wct